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Please reply to New Jersey

January 10, 2018

**VIA E-FILING**

Honorable Mark Falk, U.S.M.J.  
United States District Court  
District of New Jersey Newark  
U.S. P.O. & Courthouse, Room 457  
1 Federal Sq.  
Newark, NJ 07102

**RE: CIOFFI, MICHAEL VS. BOROUGH OF ENGLEWOOD CLIFFS, ET AL.**

Our File No. : 85341 ELH  
Docket No. : 2:16-CV-04536-WJM-MF

Dear Judge Falk:

As Your Honor is aware, on or about October 20, 2017, we were retained to represent Defendant Council President Carrol McMorro in this matter. On December 5, 2017, a joint letter was submitted by all Defendants consenting to Plaintiff's filing of the Second Amended Complaint as long as Defendants had opportunity to file a Motion to Dismiss the pleadings pursuant to F.R.C.P. 12(b)(6). (Docket Entry #30). On January 9, 2018, the Court entered the Consent Order executed by the parties which permits Plaintiff to file his Second Amended Complaint on or before January 16, 2018, and permits Defendants to file an Answer, or to otherwise move, no later than 30 days from the filing date of the Second Amended Complaint. (Docket Entry #38).

In reviewing Plaintiff's Second Amended Complaint, it has become sufficiently clear that Plaintiff's claims against Defendant McMorro fail to state a claim upon which relief can be granted. The Second Amended Complaint is replete with bald assertions and makes absolutely no specific factual allegations against Ms. McMorro which would entitle Plaintiff to relief. F.R.C.P. 8(a)(2). While some of Plaintiff's claims may be appropriate for proceeding through discovery as to the Borough and Council as an entity, the pleadings are insufficient as to Ms. McMorro individually.

As such, in addition to the F.R.C.P. 12(b)(6) motion on the newly added claims, Defendant McMorro respectfully requests that she be permitted to also file a Motion for Judgment on the Pleadings pursuant to F.R.C.P. 12(c) as to all claims that were previously plead against her in Plaintiff's First Amended Complaint.

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Permitting Defendant McMorrow to do so would not cause any undue delay since the Defendants were already filing a Motion to Dismiss pursuant to F.R.C.P. 12(b)(6) on the newly added claims. As a matter of fundamental fairness, Defendant McMorrow should not be forced to endure the stress and costs of litigation when the pleading against her is on its face deficient. Therefore, we respectfully request that Defendant McMorrow be permitted to file a Motion for Judgment on the Pleadings in addition to the Motion to Dismiss for Failure to State a Claim Upon Which Relief Can be Granted on the newly added claims.

We appreciate the Court's consideration.

Respectfully submitted,

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